

**REMARKS**

Claims 1-7 and 10-19 are pending in this application. Claims 8 and 9 are canceled. By this Amendment, claims 1-7 and 10-12 are amended and claims 13-19 are added. Claims 1-7 and 10-12 are amended to clarify the claimed subject matter and claims 13-19 are added to cover subject matter deleted from amended claims 1, 5, 6, 10, and 12. No new matter is added.

**Information Disclosure Statement**

The Examiner stated that the IDS filed November 7, 2005, fails to comply with 37 C.F.R. §1.98(a)(3) because it lacks a concise explanation of the relevance of the non-English language documents cited therein. Applicants respectfully disagree.

As stated in 37 C.F.R. §1.98(a)(3)(i), the concise explanation of relevance "may be either separate from applicant's specification *or incorporated therein*" (emphasis added). Applicants stated in the IDS, page 1, that the relevance of references 4-15, which include non-considered references 7 and 8, is described in the specification. In addition, Applicants filed an English-language abstract with reference 8.

Non-considered reference 2 was cited in the International Search Report (ISR) and the relevance of this reference is described therein. An English-language version of the ISR was filed with the application on July 7, 2005, and another copy was filed with the IDS on November 7, 2005.

Applicants' IDS is in compliance with 37 C.F.R. §1.98(a)(3). Thus, Applicants respectfully request that the Examiner consider references 2, 7, and 8. A copy of the November 7, 2005, PTO-1449 is attached hereto for the Examiner's convenience.

**Objection to the Specification**

The Examiner stated that "Applicant is reminded of the proper format" for specifications. Office Action, p. 2. However, the Examiner did not object to the format of

the specification. Moreover, even if the Examiner had objected to the format, Applicants assert that the "proper format" is only a preferable format, and applicable to applications filed under 35 U.S.C. §111(a), not to applications filed under 35 U.S.C. §371.

Regarding the Abstract, Applicants attach hereto a substitute Abstract having one paragraph.

Regarding the title of the invention, Applicants appreciate the Examiner's suggestion for a new title. Applicants amended the title as suggested by the Examiner.

In view of the foregoing, reconsideration and withdrawal of the objection are respectfully requested.

**Rejections under 35 U.S.C. §112, second paragraph**

The Examiner rejected claims 1-7 and 10-12 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. Applicants respectfully traverse the rejection.

In an effort to further prosecution and without acquiescing in the propriety of the rejections, Applicants amended claims 1-7 and 10-12 and added claims 13-19 to address the Examiner's statements on pages 6-11 of the Office Action.

Specifically, the Examiner stated that the terms "the Gram-positive group" (claim 1), "the Gram-negative group" (claim 1), "the color thereof" (claim 1), "a gelled medium" (claim 7), "the Gram-positive type" (claim 11), and "the Gram-negative type" (claim 11) lack antecedent basis. Claims 1, 7, and 11 are amended to provide antecedent basis or remove the term.

The Examiner stated that the terms "using" (claim 6), "characterized in that" (claims 10-12), "it" (claims 10 and 11), and "consists in" (claims 10 and 11) are unclear. Applicants amended the claims as suggested by the Examiner by replacing the terms "using" and "consists in" with the term "comprising." Applicants appreciate the Examiner's helpful

suggestions. Applicants also amended the claims to replace the term "characterized in that" with the term "wherein" and replace the term "it" with the intended term.

The Examiner stated that claims 6 and 10 are omnibus-type claims, and thus it is not clear what is included in or excluded from the claims. Applicants amended claims 6 and 10 such that the claim boundaries are clear.

The Examiner stated that claims 11 and 12 contain a range within a range, which renders the claims indefinite. Applicants amended the claims, and added claim 13, to clarify the claim language.

The Examiner stated that claim 11 references visualization of at least one color synonymous with a microorganism, but that it is unclear whether the color is caused by action on the chromogenic substrate or by identification of a microorganism's unique endogenous color.

Applicants assert that claim 11, as-filed and as amended herein, clearly sets forth the intended method of differentiating between Gram-positive and Gram-negative bacteria. The medium employed in claim 11 comprises at least one chromogenic enzyme substrate as claimed in claim 1. After the medium is seeded with a biological sample and incubated, a color may appear that indicates the presence of Gram-negative bacteria in the culture medium. The color is not endogenous to a specific microorganism. The color serves as an indicator of the presence of a *type* of bacteria. *See, e.g.*, Examples 10 and 11.

In view of the foregoing, reconsideration and withdrawal of the rejections are respectfully requested.

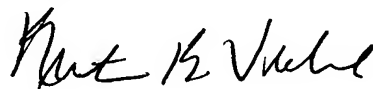
### **Conclusion**

Applicants thank the Examiner for the indication that claims 1-7 and 10-12 are free of the prior art.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of claims 1-7 and 10-19 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



William P. Berridge  
Registration No. 30,024

Kristin K. Vidovich  
Registration No. 41,448

WPB:KKV/kxs

Attachments:

Substitute Abstract  
Copy of November 7, 2005, PTO-1449

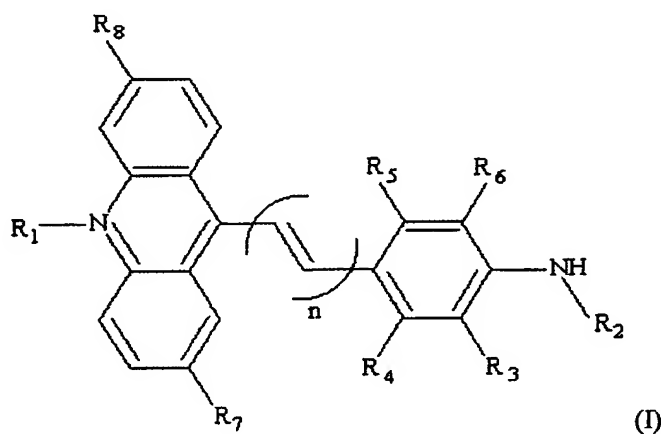
Date: November 8, 2006

**OLIFF & BERRIDGE, PLC**  
**P.O. Box 19928**  
**Alexandria, Virginia 22320**  
**Telephone: (703) 836-6400**

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**ABSTRACT**

The present invention relates to chromogenic substrates that are used to detect aminopeptidase activity in microorganisms or to determine whether at least one bacterium is Gram-positive or Gram-negative according to its color. The invention also relates to culture media containing such substrates and to methods of differentiating Gram-positive bacteria from Gram-negative bacteria using the substrates or media. The novel substrates have the following formula (I):



wherein  $R_1$  is nothing or an alkyl, allyl or aryl group;  $R_2$  is at least one amino acid, preferably alanine;  $R_3$ ,  $R_4$ ,  $R_5$  and  $R_6$  are, independently of one another, H- or O-alkyl, preferably O-CH<sub>3</sub>;  $R_7$  is H, O-CH<sub>3</sub>, alkyl or halogen;  $R_8$  is H or Cl; and  $n$  is 0 or 1.